

AMENDED IN SENATE AUGUST 19, 2009

AMENDED IN SENATE JULY 23, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1017

**Introduced by Assembly Members Portantino and Brownley
(Coauthors: Assembly Members Blumenfield, Fuentes, Lieu, Salas,
and Skinner)**

(Coauthors: Senators Alquist and Yee)

February 27, 2009

An act to add and repeal Section 680.1 of the Penal Code, relating to sexual assault crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1017, as amended, Portantino. Sexual assault crimes.

Existing law, the Sexual Assault Victims' DNA Bill of Rights, authorizes a law enforcement agency investigating certain felony sex offenses, upon the request of the victim, and subject to the commitment of resources, to inform the victim whether or not a DNA profile was obtained from the testing of the rape kit evidence or other crime scene evidence from the case, whether or not that information has been entered into the Department of Justice Data Bank of case evidence, and whether or not there is a match between the DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile

contained in the Department of Justice Convicted Offender DNA Data Base, as specified. Existing law also requires that the victim be given written notification by the law enforcement agency if the law enforcement agency elects not to perform DNA testing of the rape kit evidence or other crime scene evidence, or intends to destroy or dispose of the rape kit evidence or other crime scene evidence prior to the expiration of the statute of limitations, as specified. Existing law provides that the sole civil or criminal remedy available to a sexual assault victim for a law enforcement agency's failure to fulfill its responsibilities under the Sexual Assault Victims' DNA Bill of Rights is standing to file a writ of mandamus to require compliance with these notification provisions.

This bill would require local law enforcement agencies responsible for taking or processing rape kit evidence to annually report *to the Department of Justice statistical* information pertaining to the ~~number processing of rape kits received, tested, and destroyed, to the Department of Justice~~, as specified. The reports received would be subject to inspection under the California Public Records Act. These provisions would become inoperative on July 1, 2015, and would be repealed on January 1, 2016.

By imposing additional reporting duties on local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 680.1 is added to the Penal Code, to read:
- 2 680.1. (a) Each local law enforcement agency responsible for
- 3 taking or processing rape kit evidence shall annually report, by
- 4 July 1 of each year, the following information to the Department
- 5 of Justice:

1 (1) The total number of rape kits received during the preceding
2 calendar year *and, of that total, the number of rape kits for which*
3 *the identity of the assailant is unknown and the number of rape*
4 *kits for which the identity of the assailant is contested.*

5 (2) The total number of rape kits tested during the preceding
6 calendar year *and, of that total, the number of rape kits for which*
7 *the identity of the assailant is unknown and the number of rape*
8 *kits for which the identity of the assailant is contested.*

9 (3) *The total number of rape kits that law enforcement has*
10 *requested be tested and, of that total, the number of rape kits for*
11 *which the identity of the assailant is unknown and the number of*
12 *rape kits for which the identity of the assailant is contested.*

13 (4) *The number of rape kits that law enforcement has requested*
14 *be tested that remain untested and, of that number, the number of*
15 *rape kits for which the identity of the assailant is unknown and*
16 *the number of rape kits for which the identity of the assailant is*
17 *contested.*

18 ~~(3)~~

19 (5) The total number of untested rape kits in its possession as
20 of January 1 of the reporting year.

21 ~~(4)~~

22 (6) The total number of rape kits destroyed during the preceding
23 calendar year.

24 The initial report to the department pursuant to this subdivision
25 ~~shall include available statistics for the previous five years be made~~
26 ~~by July 1, 2011.~~

27 (b) The reports received pursuant to subdivision (a) are subject
28 to inspection under the California Public Records Act (Chapter
29 3.5 (commencing with Section 6250) of Division 7 of Title 1 of
30 the Government Code).

31 (c) This section shall remain operative only until July 1, 2015,
32 and shall be repealed on January 1, 2016, unless a later enacted
33 statute, that is enacted before January 1, 2016, deletes or extends
34 that date.

35 SEC. 2. If the Commission on State Mandates determines that
36 this act contains costs mandated by the state, reimbursement to
37 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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